

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CEASAR R. BANKS,

Plaintiff,

v.

CAPTAIN KARTMAN,  
LIEUTENANT R. SKIME,  
K. SOLOMON, CAPTAIN HASELBERG  
and JANE DOE,

Defendants.

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ORDER

09-cv-98-bbc

Plaintiff Cesar R. Banks is proceeding on Fourteenth Amendment procedural due process and equal protection claims against defendants. Before the court is plaintiff's motion to compel production of a color photograph of the alleged injury to plaintiff's hand that resulted during an altercation at the Prairie du Chien Correctional Institution on November 16, 2008.

Defendants respond that they cannot locate the color photograph of plaintiff's hand. It is not in plaintiff's file at the institution, defendants' counsel's file or the records at the Prairie du Chien Correctional Institution. Defendants' counsel sent plaintiff a black and white copy of the photograph. Defendants cannot be compelled to produce something they don't have.

Therefore, it is ORDERED that plaintiff's motion to compel production of the color photograph is DENIED.

Entered this 6<sup>th</sup> day of November, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge